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CITY AND COUNTY OF HONOLULU, HONOLULU
LIQUOR COMMISSION, DENNIS ENOMOTO,
WALLACE W. WEATHERWAX, JOHN CARROLL,
ANNA HIRAI, AND ALLAN GAYLORD

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

KERRY SHANNON,	) CIVIL NO. CV04-00086 SPK/LEK
)
Plaintiff,	) CONCISE STATEMENT OF FACTS IN
	) SUPPORT OF DEFENDANTS CITY AND
vs.	) COUNTY OF HONOLULU, HONOLULU
	) LIQUOR COMMISSION, DENNIS
CITY AND COUNTY OF HONOLULU;	) ENOMOTO, WALLACE W. WEATHERWAX,
HONOLULU LIQUOR COMMISSION;	) JOHN CARROLL, ANNA HIRAI, AND
DENNIS ENOMOTO; in his official	) ALLAN GAYLORD'S MOTION TO
capacity as chairman of the	) DISMISS OR IN THE ALTERNATIVE
Honolulu Liquor Commission;	) FOR SUMMARY JUDGMENT;
WALLACE W. WEATHERWAX,	) DECLARATION OF RANDALL Y.
individually and in his	) YAMAMOTO; EXHIBITS "A" - "E;"
capacity as an agent and	) CERTIFICATE OF SERVICE
employee of the Honolulu Liquor)
Commission; JOHN CARROLL,)
individually and in his)
capacity as an employee of the)
Honolulu Liquor Commission;)
ANNA HIRAI, individually and in)
her capacity as an employee of)
the Honolulu Liquor Commission;)
ALLAN GAYLORD, individually and)
in his capacity as an employee)
of the Honolulu Liquor	) Trial Date: May 22, 2007
Commission; JOHN DOES 1-10,)
)

JANE DOES 1-10; DOE)
CORPORATIONS)
1-10; DOE PARTNERSHIPS 1-10;)
DOE GOVERNMENTAL AGENCIES 1-10,)
)
Defendants.)
)

CONCISE STATEMENT OF FACTS IN SUPPORT OF DEFENDANTS
CITY AND COUNTY OF HONOLULU, HONOLULU LIQUOR COMMISSION,
DENNIS ENOMOTO, WALLACE W. WEATHERWAX, JOHN CARROLL,
ANNA HIRAI, AND ALLAN GAYLORD'S MOTION TO DISMISS
OR IN THE ALTERNATIVE FOR SUMMARY JUDGMENT


Pursuant to Rule L.R. 56.1 fo the Local Rules of
Practice for the United States District Court for the District of
Hawaii, Defendants CITY AND COUNTY OF HONOLULU, HONOLULU LIQUOR
COMMISSION, DENNIS ENOMOTO, in his official capacity as chairman
of the Honolulu Liquor Commission, WALLACE W. WEATHERWAX,
individually and in his capacity as an agent and employee of the
Honolulu Liquor Commission, JOHN CARROLL, individually and in his
capacity as an employee of the Honolulu Liquor Commission, ANNA
HIRAI, individually and in her capacity as an employee of the
Honolulu Liquor Commission, and ALLAN GAYLORD, individually and
in his capacity as an employee of the Honolulu Liquor Commission,
hereby submit their separate concise statement of material facts
in support of their Motion to Dismiss or in the alternative, for
Summary Judgment, which is being filed contemporaneously.

Facts	Evidentiary Support
Plaintiff applied for overtime pay with the Liquor Commission because of his participation with the FBI and HPD investigation.	<u>See</u> Exhibit "B," Kerry Shannon Deposition Transcript (Vol. II), dated May 23, 2006 ("Shannon Depo Vol. II") at pg. 52, line 2 - pg.54, line 18.
Plaintiff has no evidence that Defendants informed Plaintiff's fellow investigators of the Plaintiff's grand jury testimony	<u>See</u> Exhibit "C," Plaintiff Kerry Shannon's Deposition Transcript (Vol. I), dated May 22, 2006 ("Shannon Depo Vol. I") at pg. 82, lines 12 - 19.
Plaintiff has no evidence that Allan Gaylord delayed processing of his workers' compensation claim as retaliation. Rather, the evidence establishes that Allan Gaylord investigated the incident because he didn't think Plaintiff could have injured himself because the female was smaller than Plaintiff.	<u>See</u> Shannon Depo. Vol. 1 at pg. 90, lines 3 - 25.
Plaintiff voluntarily resigned for unrelated and pre-existing medical reasons.	<u>See</u> Shannon Depo at Vol. I at pg. 105, lines, 20 - 25; Shannon Depo Vol. II at pg. 30, line 19 - pg. 33, line 14.
Plaintiff admits that he made derogatory comments about commissioners regarding the Happy Days Chinese Restaurant and was verbally counseled for it; no disciplinary action was taken.	<u>See</u> Shannon Depo Vol. I at pg. 63, line 20 - pg. 64, line 16.

Facts	Evidentiary Support
Plaintiff admits that he has no evidence that Defendants turned off Plaintiff's computer when he was not present.	<u>See</u> Shannon Depo Vol. I at pg. 94, lines 13 - 14.
Prior to him testifying before the Grand Jury on February 13, 2002, Plaintiff was already assigned to serve subpoenas in dangerous neighborhoods.	<u>See</u> Shannon Depo Vol. I at pg. 141, line 19 - pg. 142, line 25.
When Plaintiff was re-assigned to licensing, he was stationed in the enforcement division because of planned construction in the licensing area.	<u>See</u> Shannon Depo Vol. II at pg. 105, line 21 - pg. 106, line 20.
Plaintiff admits that he has no evidence that Defendants made anonymous phone calls threatening his life.	<u>See</u> Shannon Depo Vol I. at pg. 97, line 15 - pg. 98, line 13; Shannon Depo Vol I. at pg. 98, line 17 - pg. 99, line 5; Shannon Depo Vol. II at pg. 79, line 22 0 pg. 80, line 7.
Plaintiff admits that he has no evidence linking Defendants to the dead rat found on his car.	<u>See</u> Shannon Depo Vol. II at pg. 79, line 22 - pg. 80, line 7.
Plaintiff's car was stolen before he testified before the Grand Jury.	<u>See</u> Exhibit "D," Deposition of Robert Shannon, dated May 22, 2006, at pg. 15, line 24 - pg. 16, line 3.

Facts	Evidentiary Support
Plaintiff voluntarily accepted a temporary assignment to the licensing division, and later, requested and received a transfer back to the division upon his request.	See Shannon Depo at Vol. I at pg. 65, line 4 - pg. 66, line 7; Shannon Depo at Vol. I at pg. 66, lines 10 - 15; Shannon Depo at Vol. I at pg. 67, lines 3 - 6, lines 20 - 23; Shannon Depo at Vol. I at pg. 68, lines 19 - 22; Shannon Depo Vol II at pg. 33, line 15 - pg. 34, line 3.
Plaintiff never complained of being harassed to the Employee Defendants.	See Shannon Depo. Vol. II, pg. 80, lines 17 - 24; pg. 57, line 9 - 23; pg. 58, lines 10 - 21.
Plaintiff was sued by Rainbow Country Liquors on June 9, 2000, a year and a half before he testified before the Grand Jury.	See Exhibit "E."

DATED: Honolulu, Hawaii, December 20, 2006.


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